



July 2, 2019

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Re: Ex Parte Presentation  
In the Matter of Children's Television Programming Rules, MB Docket No. 18-202;  
Modernization of Media Regulation Initiative, MB Docket No. 17-105

Dear Ms. Dortch:

Gray Television, Inc. ("Gray") hereby submit this ex parte presentation pursuant to Section 1.1206 of the Commission's rules.<sup>1</sup> Gray encourages the FCC to modify its Draft Order in the above-referenced proceeding<sup>2</sup> prior to adoption to repeal Section 73.673 of the FCC's rules in its entirety, eliminating the requirement for broadcasters to provide children's programming information to program guide publishers.

Gray appreciates the Commission's efforts in the Draft Order to balance its recognition of the dramatic transformation in the market for children's programming over the past 30 years with its desire to preserve the availability of free, over-the-air educational and informational programming for children. In many respects, the Draft Order applies a practical approach to reducing the burden that compliance with the existing children's programming rules imposes upon broadcasters. One area where the Draft Order falls short, however, is in proposing to preserve the requirement that broadcasters provide information identifying programming specifically designed to educate and inform children to publishers of program guides, which serves no public interest benefit.

In the Draft Order, the FCC proposes to modify the information that broadcasters must provide to program guide publishers. Section 73.673 of the Commission's rules currently provides that:

Each commercial television broadcast station licensee shall provide information identifying programming specifically designed to educate and inform children to publishers of program guides. Such information shall include an indication of the age group for which the program is intended.<sup>3</sup>

The Draft Order would delete the second sentence from Section 73.673, but preserve the requirement for broadcasters to continue providing information to program guide publishers identifying Core

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<sup>1</sup> 47 C.F.R. § 1.1206(b)(2).

<sup>2</sup> FCC-CIRC1907-06 (the "Draft Order").

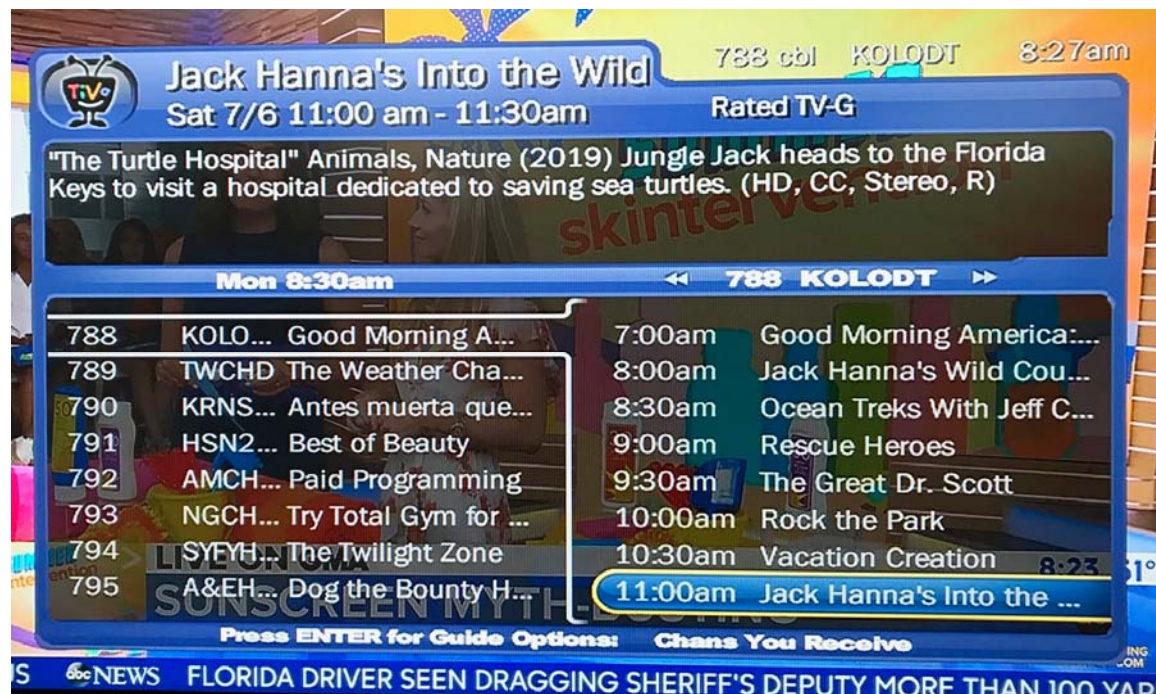
<sup>3</sup> 47 C.F.R. § 73.673.

Programming.<sup>4</sup> Bifurcating the requirement in this manner is arbitrary and capricious will continue to impose a burden on broadcasters for no rationale reason.

The very basis that the Commission cites to justify eliminating the requirement to indicate the age group to which educational and informational programming is targeted applies equally to the requirement to identify Core Programming in the first instance. Specifically, the Draft Order explains that broadcasters should not need to report the intended age group for their Core Programming because “very few program guides include this information.”<sup>5</sup> As Gray explained in its Comments, however, most major guide publishers do not provide any information about educational and informational programming.<sup>6</sup>

Indeed, Gray has conducted an informal sampling of program guides from MVPD set top boxes and online listings, none of which include any information that broadcasters are required to provide under Section 73.673.

Charter (Reno, NV) On-Screen Guide:

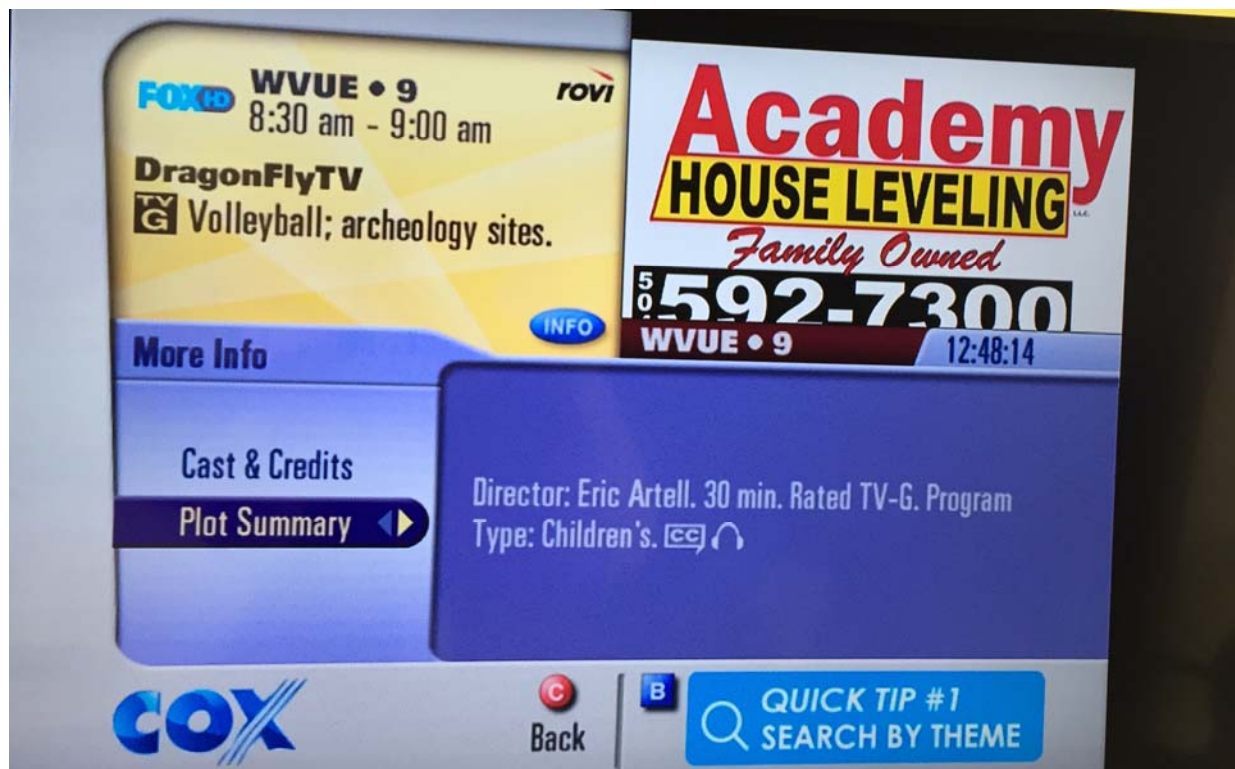
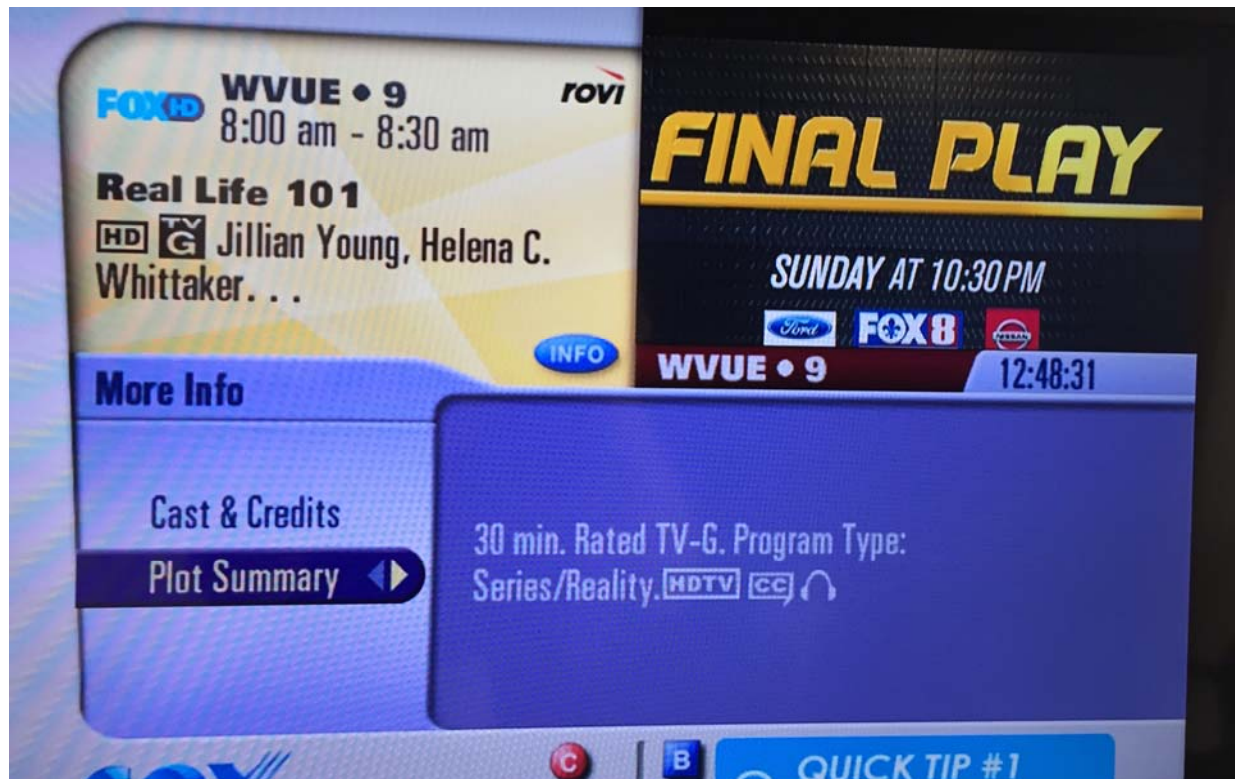


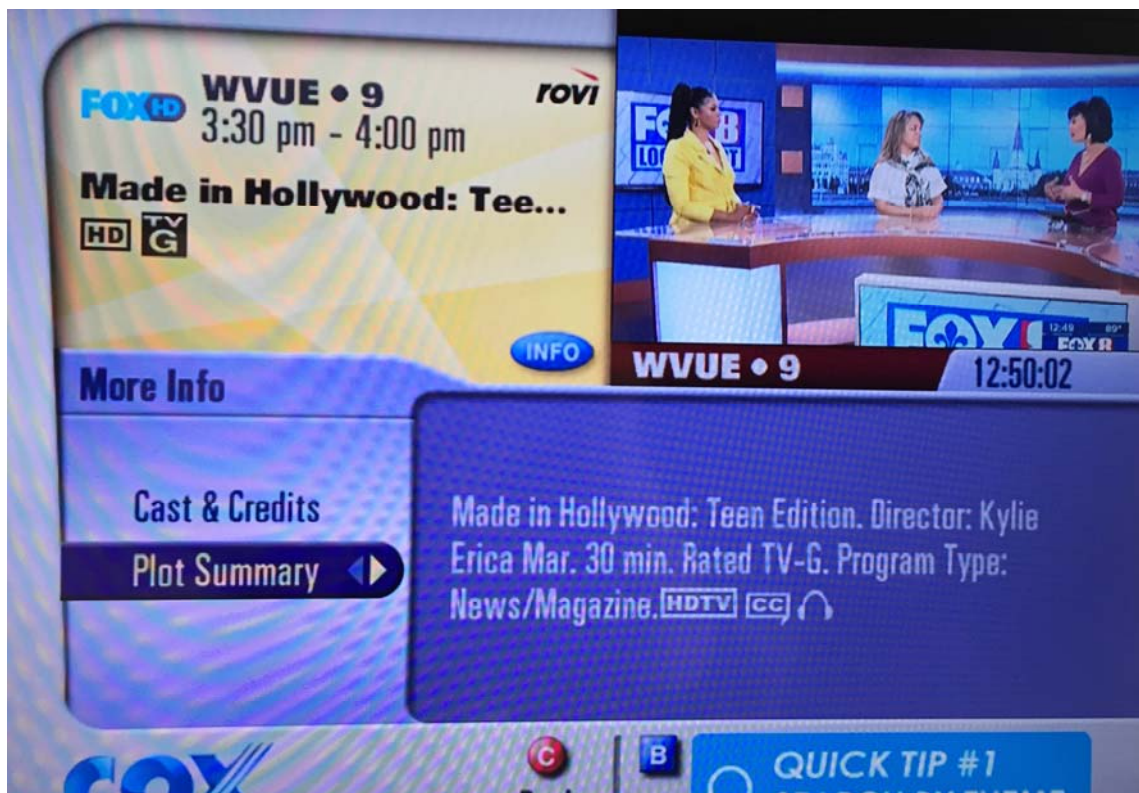
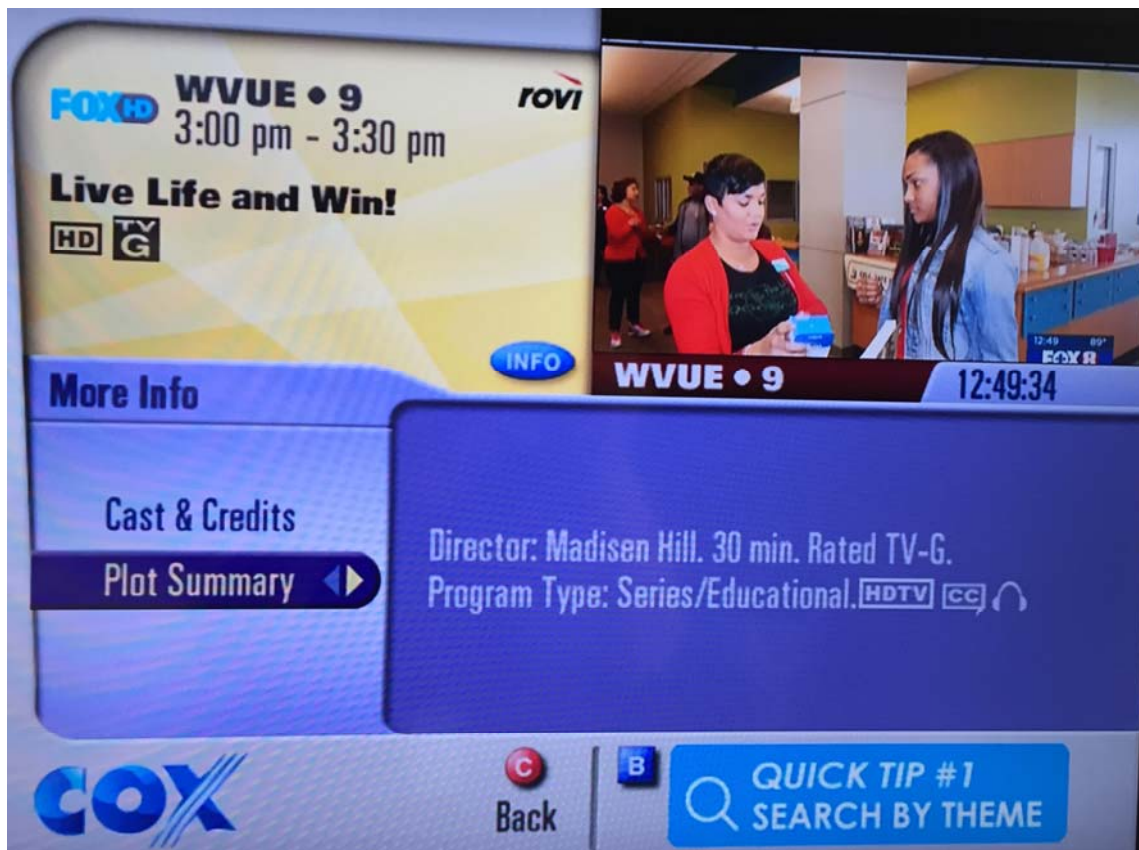
<sup>4</sup> Draft Order ¶ 58.

<sup>5</sup> *Id.*

<sup>6</sup> See Comments of Gray Television, Inc. at 4 (Sept. 24, 2018).

Cox (New Orleans, LA) On-Screen Guide (although Gray reported each of the following programs as educational and informational, the guide uses different descriptions for each, and none have the E/I symbol):





Cox (Wichita, KS) On-Screen Guide:



Mon 7/01 1:07pm

USER Switch User Hello

**CBS** **Hope in the Wild**  
 Sat 7/13 10:00am-10:30am **NEW** **HD** **TV-G** **CC**  
 2012 KWCH Wildlife rehabilitation expert Hope Swinimer and her dedicated team go on difficult missions to..

Guide: Grid View: **Hope in the**

**Full Details**

**Hope in the Wild**  
**NEW** **HD** **TV-G** **CC**  
 Wildlife rehabilitation expert Hope Swinimer and her dedicated team go on difficult missions to rescue and heal injured and orphaned animals of all kinds. Cast: Hope Swinimer. Rated TV-G. Genre: Other. New.

Sat 7/13 9:30am

|            |                 |
|------------|-----------------|
| 2012 KWCH  | The Inspectors  |
| 2015 KDCU  | Naturaleza hu.. |
| 2022 YVKS  | Weekend Exp..   |
| 2023 QVC   | Saturday Mornin |
| 2024 MSNBC | AM Joy          |
| 2025 CNN   | CNN Newsroo..   |
| 2026 HLN   | Weekend Exp..   |

**CONTOUR**  
from COX



Mon 7/01 1:09pm

USER Switch User He

**KSCW** **The Wildlife Docs**  
 Sat 7/13 8:30am-9:00am **HD** **TV-G** **CC**  
 5 KSCW A veterinary team cares for more than 2,000 animals.

Grid View: **The Wildlife**

**Full Details**

**The Wildlife Docs**  
**HD** **TV-G** **CC**  
 A veterinary team cares for more than 2,000 animals. Rated TV-G. Genre: Other.

7:00am

|        |                  |
|--------|------------------|
| CW     | Eyewitness News  |
| ATW    | Teen Kids Ne..   |
| TY1 .. | Government Acc   |
| PTS    | Pinkalicious ..  |
| AKE    | Good Morning A   |
| SN     | Electronic Conne |
| WCH    | CBS This Mornin  |

**TOUR**  
m COX

DirecTV (Sherman, TX) On-Screen Guide:





**11:49a**  
 Mon 7/1

## Lucky Dog

7/6 8:00a - 8:30a | TV-G

**Autotune**

**Other Showings**

**Cast & Crew**

**Done**

**First Aired: 2/23/2019**

KXII 12

30min

Reality, Animals, CC, Series

**HD**

**"Meaningful Matches"** Five different shelter dogs are trained for their new forever families; the pairings prove to be truly meaningful matches for everyone involved.





**11:55a**  
 Mon 7/1

## Lucky Dog

7/6 8:00a - 8:30a | TV-G


"Meaningful Matches" Reality, Animals. (2019)


Brandon McMillan. Five shelter dogs are trained. CC, Series.

| Sat 7/6    | 8:00a                         | 8:30a                        | 9:00a                        |
|------------|-------------------------------|------------------------------|------------------------------|
| 10 KTEN    | < Today <b>HD</b>             |                              | The Voyager Wi... <b>HD</b>  |
| 11 ABC     | Jack Hanna's Wil... <b>HD</b> | Ocean Treks Wit... <b>HD</b> | Hearts of Heroes <b>HD</b>   |
| 12 KXII    | <b>Lucky Dog <b>HD</b></b>    | Dr. Chris: Pet Vet <b>HD</b> | The Henry Ford'... <b>HD</b> |
| 13 KXIIDT3 | Rock the Park <b>HD</b>       | Rock the Park <b>HD</b>      | FIFA Women's ... <b>HD</b> > |
| 14 CW      | Ready, Set, Pet               | The Wildlife Docs            | This Old House: Tra...       |
| 65 PBS     | Let's Go Luna!                | Nature Cat                   | Ready Jet Go!                |

● - 12hrs 
 ● + 12hrs 
 ● Guide Options

DirecTV (Sioux Falls, SD) On-Screen Guide:


**DIRECTV** | 10:56a |



# Hearts of Heroes

S1 E16 | No Escape

Jul 6, 9:00a-9:30a | TV-G | Nature, Reality


All Seasons

Summary

Record Once

Record Series

Other Showings



Hearts of Heroes

First Aired: Sat, Jul 6, 2019

30m | 13 KSFY

Science/Nature, CC, Series

[HD]

No information available.

Mediacom (Bethany Beach, DE) On-Screen Guide:

## The Henry Ford's Innovation Nation

11:23am

S5 E14 'Stroller Bike' - An inflatable light keeping night bright; a bicycle that transforms into a stroller; and the history of making furniture comfortable. Also: the success of past innovators. (CC, R, HD) Science, Technology, First aired: 2/9/2019

Sat 6/22 11:00am - 11:30am | TV-G

|       | ◀ Sat 6/22 ▶        | 11:00am                               | 11:30am                                  | 12:00pm                       |
|-------|---------------------|---------------------------------------|--|-------------------------------|
| port  | 793 HD <b>RFDTV</b> | FarmHer <b>NEW</b>                    | Mecum Auctions - Gone Farmin' <b>NEW</b> |                               |
| reat  | 796 HD <b>HD</b>    | DuckTales                             | DuckTales                                | Gravity Falls                 |
| on?   | 803 HD <b>EW</b>    | Campmeeting Inspirational Ministries  |  | Made in Hollywooc <b>NE</b>   |
| lace  | 805 HD <b>FOX</b>   | Weekend Marketplace                   | Weekend Marketplace                      | Paid Programming              |
| t Vet | 806 HD <b>CBS</b>   | The Henry Ford's Inno                 | The Inspectors                           | Paid Programming              |
| scott | 807 HD <b>6</b>     | Rock the Park                         | Vacation Creation                        | Never Fear Power Ou           |
| talia | 808 HD <b>9 PM</b>  | Christopher Kimball's                 | America's Test Kitchen                   | A Taste of History <b>NEW</b> |
| cing  | 809 HD <b>NBC</b>   | International Horse Racing <b>NEW</b> |  |                               |

**Consumer 101** 11:23am

A look at the science used to test every kind of product, from the obscure to the fascinating to the everyday. (CC, R, HD) Educational, Science, First airs: 6/22/2019

Sat 6/22 2:00pm - 2:30pm | TV-G

|      | Sat 6/22 →    | 1:00pm                            | 1:30pm                    | 2:00pm          |
|------|---------------|-----------------------------------|---------------------------|-----------------|
| ng   | 811 HD NBC    | Teen Kids News <b>NEW</b>         | Teen Kids News <b>NEW</b> | Consumer 101    |
| 50   | 812 HD 7PM    | Islands Without Cars              | America: From the Gr      | Moveable Fea    |
| ld   | 813 HD 7PM    | Sara's Weeknight Me               | Lidia's Kitchen           | Cook's Countr   |
| g Q  | 817 HD QVC    | Saturday Morning Q                |                           | Ring Video Doc  |
| ng   | 818 HD LOCAHD | Local Access Programming          |                           |                 |
| pez  | 823 HD        | Saturday Blend with Colleen Lopez |                           | Beat the Heat F |
| Unit | 824 HD lon    | Law & Order: Special Victims Unit |                           | Law & Order: Sp |
| S'H  | 825 HD WGN    | M*A*S*H                           | M*A*S*H                   | M*A*S*H         |

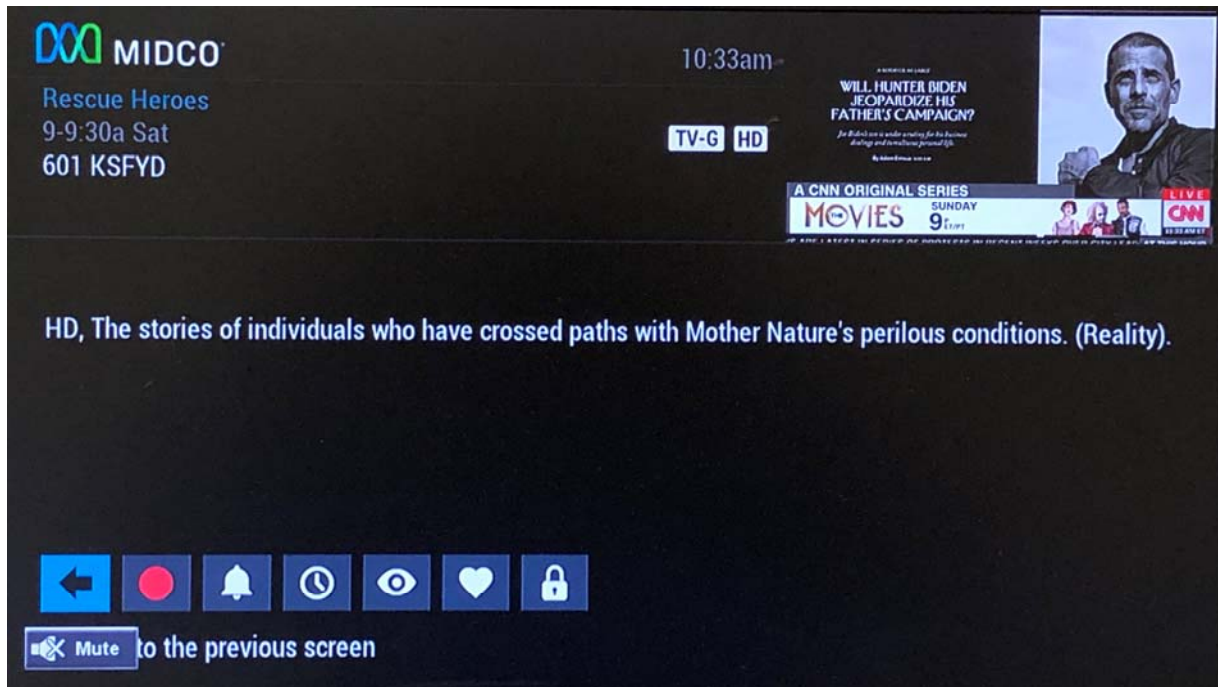
**Teen Kids News **NEW**** 11:22am

Weekly report on events with interest for teens, including headline news, entertainment, medical advice, drinking and driving, books and Internet safety. (CC, SD) Kids, News, First airs: 6/22/2019

Sat 6/22 1:00pm - 1:30pm

|      | Sat 6/22 →    | 1:00pm                            | 1:30pm                    | 2:00pm             |
|------|---------------|-----------------------------------|---------------------------|--------------------|
| ng   | 811 HD NBC    | Teen Kids News <b>NEW</b>         | Teen Kids News <b>NEW</b> | Consumer 101       |
| 50   | 812 HD 7PM    | Islands Without Cars              | America: From the Gr      | Moveable Feast W   |
| orld | 813 HD 7PM    | Sara's Weeknight Me               | Lidia's Kitchen           | Cook's Country     |
| g Q  | 817 HD QVC    | Saturday Morning Q                |                           | Ring Video Doorbo  |
| ing  | 818 HD LOCAHD | Local Access Programming          |                           |                    |
| pez  | 823 HD        | Saturday Blend with Colleen Lopez |                           | Beat the Heat Feat |
| Unit | 824 HD lon    | Law & Order: Special Victims Unit |                           | Law & Order: Speci |
| S'H  | 825 HD WGN    | M*A*S*H                           | M*A*S*H                   | M*A*S*H            |

Mid-Continental Cable (Sioux Falls, SD) On-Screen Guide:



Suddenlink (Springfield, MO) On-Screen Guide:

|                              |           |   |                       |                       |
|------------------------------|-----------|---|-----------------------|-----------------------|
| Ocean Treks With Jeff Corwin |           | TV-G HD   |                       |                       |
| 8:30-9a Sat                  |           | HD, A nature conservationist visits port cities to embark on adventurous day trips. (Nature). |                       |                       |
| Sat                          | <   8:30a | 9:00a   | 9:30a                 |                       |
| 720                          | KSPRD     | Ocean Treks With Jeff...  | Hearts of Heroes      | The Great Dr. Scott   |
| 721                          | ANTEN     | Wild World  | All in With Laila Ali | All in With Laila Ali |
| 722                          | BOUNC     | The Bernie Mac Show   | Animal Tails          | Animal Tails          |
| 723                          | KOZL2     | The FBI Files   | Missing               | Better Planet TV      |
| 725                          | COZI      | Kojak   | Kojak                 |                       |
| 729                          | KYCW      | KY3 Ozarks Today  | Ready, Set, Pet       | The Wildlife Docs     |




## Verizon FiOS (Washington, D.C.) Online Guide:

fios **Home** **Guide** Browse My Stuff Pay Per View

**TV listings**

|  | Today<br>Jun 27 | Tom<br>Jun 28 | <b>Sat<br/>Jun 29</b> | Sun<br>Jun 30 | Mon<br>Jul 01 | Tue<br>Jul 02 | Wed<br>Jul 03 | Thu<br>Jul 04 | Fri<br>Jul 05 |
|--|-----------------|---------------|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|
|  | 11:00am         | 11:30am       | 12:00pm               | 12:30pm       | 01:00pm       | 01:30pm       |               |               |               |

Find channel

|  |   |   |   |   |   |   |
|--|---|---|---|---|---|---|
| <br>2 | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Larry King Special R...</b><br>Larry King Special R... | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Flipping Millio</b><br>Flipping Millio |
| <br>3 | <b>H2O Steam Fx Pro</b><br>H2O Steam Fx Pro                 | <b>Paid Programming</b><br>Paid Programming                 | <b>Dr. Ho's Total Body R...</b><br>Dr. Ho's Total Body R... | <b>Yard Revolution 2019</b><br>Yard Revolution 2019       | <b>HouseSmarts</b><br>HouseSmarts                           | <b>New Raw Tra</b><br>S6 E17. Sprea       |
| <br>4 | <b>New Consumer 101</b><br>S1 E23. Sign Langua...           | <b>Naturally, Danny Seo</b><br>S3 E13. Green-Livin...       | <b>Vets Saving Pets</b><br>S1 E20. Attached at t...         | <b>The Champion Within</b><br>Surf's up on the Podi...    | <b>Dr. Ho's Total Body R...</b><br>Dr. Ho's Total Body R... | <b>MyPillow Topp</b><br>MyPillow Topp     |

**New**

## Consumer 101

S1 E23. Sign Language

Jack Rico plays a simple game to help create more complex passwords; Jack explores what the warning lights on a car's dashboard actually mean; a consumer reports expert shares what to do about hidden fees.

TV-G | 30 Mins | Interests | 11:00am - 11:30am | CC | DVS





[More info](#) [Record](#)

fios **Home** **Guide** Browse My Stuff Pay Per View

**TV listings**

|  | Today<br>Jun 27 | Tom<br>Jun 28 | <b>Sat<br/>Jun 29</b> | Sun<br>Jun 30 | Mon<br>Jul 01 | Tue<br>Jul 02 | Wed<br>Jul 03 | Thu<br>Jul 04 | Fri<br>Jul 05 |
|--|-----------------|---------------|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|
|  | 11:00am         | 11:30am       | 12:00pm               | 12:30pm       | 01:00pm       | 01:30pm       |               |               |               |

Find channel

|  |   |   |   |   |   |                         |
|--|---|---|---|---|---|-------------------------|
| <br>2 | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Larry King Special R...</b><br>Larry King Special R... | <b>Flipping Millionaire ...</b><br>Flipping Millionaire ... | <b>Flippi</b><br>Flippi |
| <br>3 | <b>H2O Steam Fx Pro</b><br>H2O Steam Fx Pro                 | <b>Paid Programming</b><br>Paid Programming                 | <b>Dr. Ho's Total Body R...</b><br>Dr. Ho's Total Body R... | <b>Yard Revolution 2019</b><br>Yard Revolution 2019       | <b>HouseSmarts</b><br>HouseSmarts                           | <b>New S6 E1</b>        |
| <br>4 | <b>New Consumer 101</b><br>S1 E23. Sign Langua...           | <b>Naturally, Danny Seo</b><br>S3 E13. Green-Livin...       | <b>Vets Saving Pets</b><br>S1 E20. Attached at t...         | <b>The Champion Within</b><br>Surf's up on the Podi...    | <b>Dr. Ho's Total Body R...</b><br>Dr. Ho's Total Body R... | <b>MyPi</b><br>MyPi     |
| <br>5 | <b>Xploration DIY Sci</b><br>Xploration DIY Sci             | <b>Xploration Nature K...</b><br>S2 E7. Robots & Dro...     | <b>Paid Programming</b><br>Paid Programming                 | <b>New MLB on FOX P...</b><br>MLB on FOX Pregame          | <b>New MLB Baseball</b><br>New York Yankees vs. Boston Red: |                         |

**Xploration DIY Sci**






Xploration DIY Sci

Steve gets messy with slime; how to turn slime into art; dropping a vat of slime from 10 stories in the air.


TV-PG | 30 Mins | Interests | 11:00am - 11:30am | CC

[More info](#) [Record](#)

Titan TV (Roanoke, VA) Online Guide:

| 7/6  | 11:00 AM   | 11:30 AM   | 12:00 PM   | 12:30 PM   |
|--|--|--|--|--|
|  <p>7.1</p> |  <p><b>The Henry Ford's Innovation Nation</b><br/>11:00 AM - 11:30 AM <b>TV-G</b><br/>Repeat <b>CC</b></p> <p><b>Shirt Life Jacket</b><br/>A shirt can be inflated to act as a lifejacket; a certain sponge can keep one's kitchen free of germs; a hydrofoil water bike is featured.</p> |  <p><b>Hope in the Wild</b><br/>11:30 AM - 12:00 PM <b>TV-G</b><br/>Repeat <b>CC</b></p> <p><b>The Porcupine's Progress</b><br/>Hope begins treating a porcupine with mange; a mink prepares to return to the wild after its successful rehabilitation.</p> |  <p><b>Tails of Valor</b><br/>12:00 PM - 12:30 PM <b>TV-G</b><br/>New <b>CC</b></p> <p><b>Leader of the Pack-ed House</b><br/>A young handler gets help from his therapy dog to find his happy place; a therapy dog assists their handler, who suffers from post-traumatic stress disorder.</p> |  <p><b>The Inspectors</b><br/>12:30 PM - 1:00 PM <b>TV-G</b><br/>Repeat <b>CC</b></p> <p><b>Sticker Shock</b><br/>A young girl acquires a toxic sticker and the Inspectors work to learn if it was accidental or purposeful; Preston is elated to work on a political campaign.</p> |

TV Guide (Washington, D.C.) Online Guide:



2.1  
WMARHD

9:00 AM

**Jack Hanna's Wild C...**  
9:00 AM - 9:30 AM


9:30 AM

**Ocean Treks With Je...**  
9:30 AM - 10:00 AM


## Jack Hanna's Wild Countdown

SATURDAY JUN 29TH, 9:00 AM ON WMARHD 2.1, 30 MIN TV-G

Wildlife expert Jack Hanna presents Top 10 lists about the animal kingdom and shares his adventures from around the world... [More About Jack Hanna's Wild Countdown](#)



SAT, JUN 29 11 AM




ION

11:00 AM

11:00 AM - 12:00 PM


11:30 AM



3.4  
WHSVDT

**Paid Programming**  
11:00 AM - 11:30 AM

**Kline May Reelty**  
11:30 AM - 12:00 PM



4.1  
WRCHD

**Consumer 101**  
11:00 AM - 11:30 AM **NEW**


**Naturally, Denny Seo**  
11:30 AM - 12:00 PM

## Consumer 101

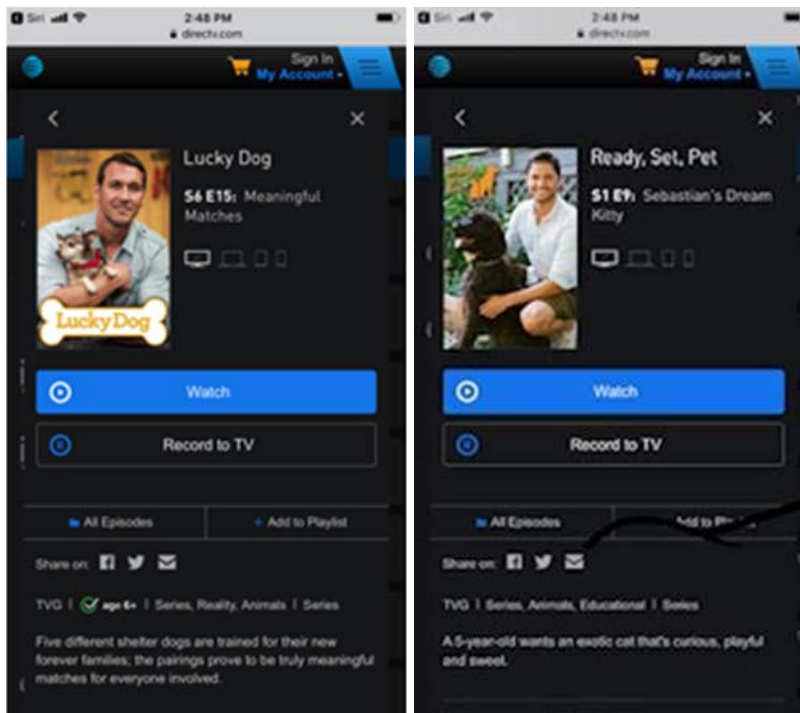
NEW EPISODE  
SATURDAY JUN 29TH, 11:00 AM ON WRCHD 4.1, 30 MIN 2019 TV-G

Season 1 • Episode 24 • Sign Language

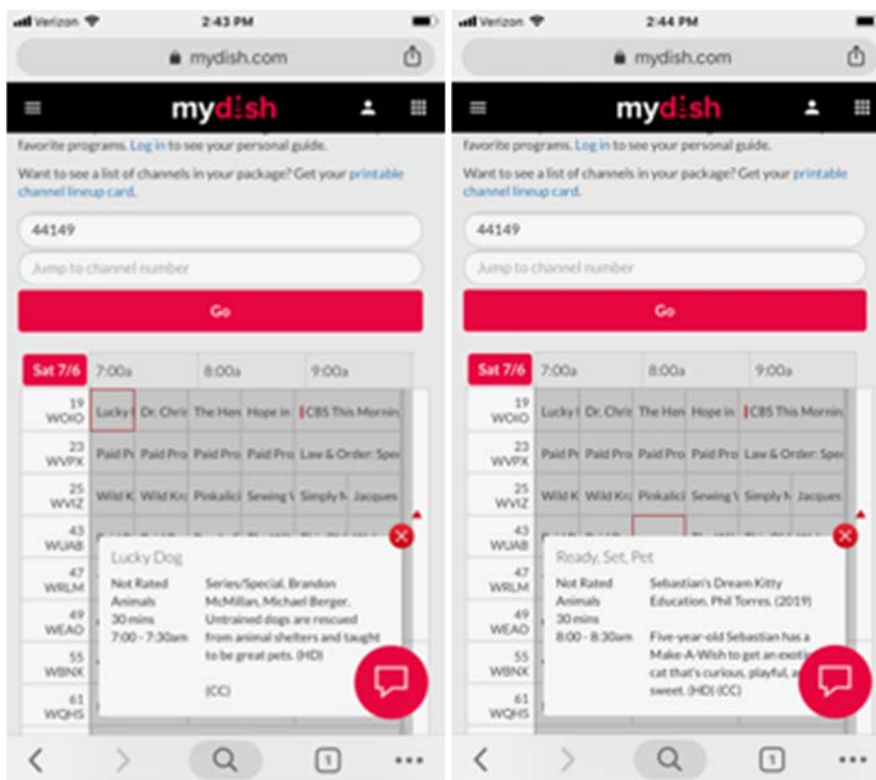
Host Jack Rico plays a simple game to help create more complex passwords. Also: the meaning of a car's dashboard warning lights; and what to do about hidden fees with the help of a Consumer Reports expert... [More About Consumer 101](#)



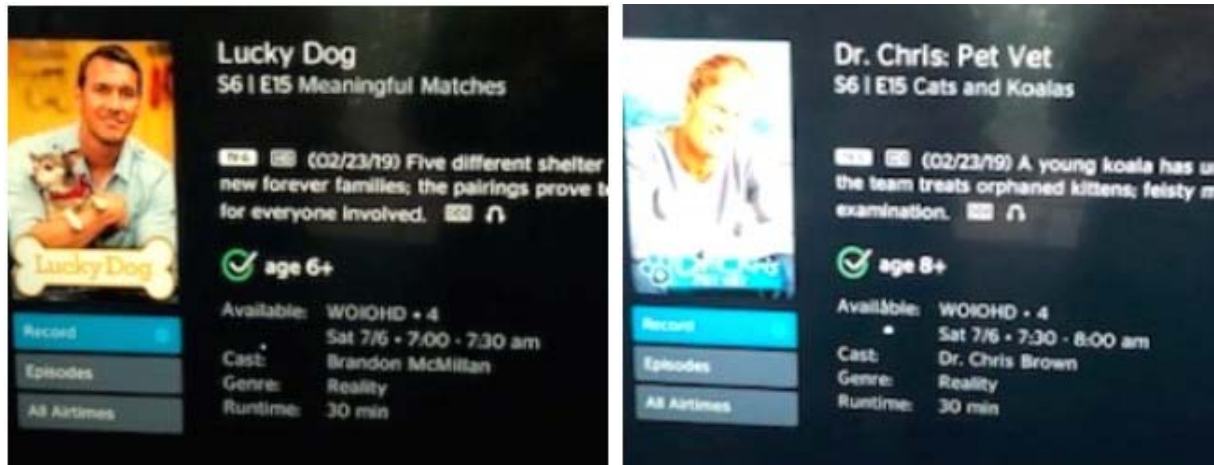
## DirecTV (Cleveland, OH) Mobile App:



## DISH Network (Cleveland, OH) Mobile App:



In other instances, program guides simply report the wrong information. For example, although Gray's television station, WOIO in Cleveland, reported to program guide publishers that the programs Lucky Dog and Dr. Chris, Pet Vet are E/I targeted to ages 13-16, Spectrum's program guide in the Cleveland market does not include any indication that the programs are specifically designed to educate and inform children and provides the wrong target age range:



Given the evidence that “very few program guides include” a designation or other information identifying programming specifically designed to educate and inform children, the FCC should not require broadcasters to provide this information to program guide publishers.

The rationale provided in the Draft Order for retaining a portion of Section 73.673 – that “there is no evidence in the record that it is burdensome for broadcasters to provide information identifying programming specifically designed to educate and inform children to program guide publishers”<sup>7</sup> – cannot withstand scrutiny. It is self-evident that forcing broadcasters to provide specific information to program guide publishers imposes some burden on broadcasters. Furthermore, even if the burden of the requirement itself may be minimal, the consequences of failing to comply with this requirement can be severe.<sup>8</sup> There is simply no justification for subjecting broadcasters to substantial forfeitures for failing to provide information to program guide publishers that those publishers apparently do not value.

Accordingly, the Commission should modify the Draft Order to repeal Section 73.673 of the FCC’s rules in its entirety and eliminate the requirement that broadcasters provide any information to program guide publishers identifying programming specifically designed to educate and inform children.

Sincerely,

Robert J. Folliard, III  
Vice President, Government Relations & Distribution

<sup>7</sup> Draft Order ¶ 58.

<sup>8</sup> See 47 C.F.R. § 1.80(b) (authorizing forfeitures of up to \$37,500 per violation, with a base forfeiture of \$8,000 for violation of children’s television commercialization or programming requirements).